

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON APPROPRIATIONS**

**Call to Order:** By **CHAIRMAN ROSALIE (ROSIE) BUZZAS**, on January 25, 2005 at 3:20 P.M., in Room 102 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Rosalie (Rosie) Buzzas, Chairman (D)  
Rep. Carol C. Juneau, Vice Chairman (D)  
Rep. John E. Witt, Vice Chairman (R)  
Rep. Tim Callahan (D)  
Rep. Eve Franklin (D)  
Rep. Bill E. Glaser (R)  
Rep. Ray Hawk (R)  
Rep. Cynthia Hiner (D)  
Rep. Verdell Jackson (R)  
Rep. Joey Jayne (D)  
Rep. Christine Kaufmann (D)  
Rep. Ralph L. Lenhart (D)  
Rep. Walter McNutt (R)  
Rep. Penny Morgan (R)  
Rep. John L. Musgrove (D)  
Rep. Rick Ripley (R)  
Rep. Jon C. Sesso (D)  
Rep. John Sinrud (R)  
Rep. Janna Taylor (R)  
Rep. Jack Wells (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Marcy McLean, Committee Secretary  
Jon Moe, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape time stamp appears at the end of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted: HB18, 1/21/2005; HB 204, 1/21/2005;  
HB 332, 1/21/2005; HB 375,  
1/21/2005

Executive Action: None

**HEARING ON HB 375****Opening Statement by Sponsor:**

**REP. CHRISTOPHER HARRIS, HD 66, BOZEMAN**, opened the Hearing on **HB 375**, a bill that would establish special reserve "rainy day" fund with restricted uses. He said he felt that in years when there is a surplus of funds available, such as now, the State should establish a reserve fund. In previous sessions, when funds were tight, the Legislature was forced to cut programs, and those cuts affected the most vulnerable people in our society. The purpose of this bill is to protect these people. When funding is scarce, the Legislature could access the "rainy day" fund for critical programs, such as healthcare and law enforcement. This would result in less disruption and distortion to these programs and a loss of service to the people of Montana. Rainy-day funds exist in a majority of states.

**EXHIBIT**(aph19a01)

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. SINRUD** asked David Ewer, the Governor's Budget Director, for his opinion on this bill. **David Ewer** told the Committee that he was not present to testify on this bill, but would attempt to answer the question. He said that Governor Schweitzer believes the best policy is to have a strong fund-balance, and agrees with Governor Martz that the appropriate amount is \$80 million. This provides the flexibility to meet unexpected expenses, such as fire suppression. They are looking into supporting the concept of a "rainy day" fund.

**REP. MORGAN** asked if the objective is to have an \$80 million ending fund balance and a \$50 million "rainy day" fund. **Rep. Harris** answered that HB 375 does not address the ending fund balance, but its purpose is to establish a "rainy day" fund for the Legislature to use when we have serious funding problems.

**Closing by Sponsor:**

**REP. HARRIS** stated that the Federal Government is facing massive deficits, and one consequence is that cutbacks to states will have to be made. Currently 47% of Montana's budget comes from federal dollars. When the Federal Government begins cutting back on those funds, the State of Montana needs to be prepared with a "rainy day" fund.

**HEARING ON HB 18****Opening Statement by Sponsor:**

**REP. CAROL JUNEAU, HD 16, BROWNING**, opened the hearing on **HB 18**, a bill that would extend the duration of State-Tribal Economic Development Commission. This bill has passed House Administration, and passed in the House on second reading. It was referred to House Appropriations to deal with the appropriation request. **REP. JUNEAU** submitted Amendment HB001801.ajm, which takes the \$200,000 appropriation out of the bill, and requests permission to carry forward the unexpended balance from the current budget into the next fiscal year.

**EXHIBIT**(aph19a02)

**Proponents' Testimony:**

**Evan Barrett, Governor's Office of Economic Development**, expressed that Indian economic development is a critical part of the Governor's economic development plan. This plan needs to include those areas of Montana, such as eastern Montana and the Indian reservations, where the economic development is tough. It is important that this Commission continue. Each of the seven Indian Reservations is different, and involvement through the Commission makes sure we are doing things right.

**Bob Gotchie, State-Tribal Economic Development Commission**, stated that the Commission was slow in getting going, but in the past few years there have been several exciting developments. Relationships have been developed with the University of Montana that resulted in the exchange of information. One of the main products the Commission developed over the past year is the University of Montana's report 'Economic Status of American Indians in Montana.'

**EXHIBIT**(aph19a03)

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 17.7}***

**Andy Cole, Department of Commerce**, stated that he has been a member of the State-Tribal Economic Development Commission since its inception in 1999. The Department of Commerce feels that it is important to have a venue to discuss economic development issues with each of the tribes in Montana.

**Ellen Swaney, Office of Commissioner of Higher Education**, stated that she has been accumulating information from the campuses of the University system on research that is being done in conjunction with the tribes. There is a lot of activity going on in this research of workforce development. The Commissioner's office believes the State-Tribal Economic Development Commission could be integral to the economic development issues going on at the Universities and can assist the tribes to effectively access this information.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. RIPLEY** said that he has served on the Tribal Relations Committee. The Committee voted to continue the Economic Development Commission, but denied the request "to change the numbers for a quorum." He asked why HB 18 is now requesting an increase in the number of people serving on the Commission, but also to decrease the number required for a quorum. **Andy Cole** answered that over the past six years the Commission got off to a slow start, and it was difficult to get a quorum. The last couple of years it has been easier and there has been significant interest from the reservations. By dropping the quorum number from seven to six, it becomes easier to conduct business should someone not be able to get to a Commission meeting. He said the request to add a member to the Commission came as a result of the recent creation of the Governor's Office of Economic Development and their interest in being involved with the Commission.

**Closing by Sponsor:**

**REP. JUNEAU** stated she thinks a good solution has been reached in terms of the money issue. If the quorum is a concern, she would be comfortable in submitting an amendment to keep it at seven.

**HEARING ON HB 204****Opening Statement by Sponsor:**

**REP. JOHN WITT, HD 28, CARTER** opened the hearing on **HB 204**, a bill that would revise deposit of gambling machine inspection fees. This bill would eliminate a statutory appropriation to the Gambling Control Division from funds paid by video gambling manufacturers for machine testing. The Division feels they can now accurately appropriate funding for this testing through HB 2, and the statutory spending authority for machine test fees is no longer necessary.

*{Tape: 1; Side: A; Approx. Time Counter: 17.7 - 31}*

**Proponents' Testimony:**

**Gene Huntington, Department of Justice**, explained that normally a bill to clean up these statutory appropriations is prepared through the Legislative Fiscal Division. However, in preparing the budget for the Department of Justice, they discovered that such a bill did not emerge. Therefore, it was necessary for them to introduce HB 204.

**EXHIBIT**(aph19a04)

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

**REP. WITT** thanked the Committee for a quick hearing.

*{Tape: 1; Side: A; Approx. Time Counter: 31 - 32.6; Comments: end of tape}*

**HEARING ON HB 332****Opening Statement by Sponsor:**

**REP. ROSALIE (ROSIE) BUZZAS, HD 93, MISSOULA**, opened the hearing on **HB 332**, a supplemental appropriation to fund the Low-Income Energy Assistance (LIEAP) for winter 2005. HB 332 would get us back to last year's funding level. The bill is necessary because of the effects of energy deregulation and cold weather on low-income people and the elderly.

**Proponents' Testimony:**

**Jim Nolan, Department of Health and Human Services (DPHHS),** handed out the document, 'Supporting Material for HB 332.'  
**EXHIBIT(aph19a05)**

He said that HB 332 would appropriate \$1.75 million for this winter's heating season. Of that amount, \$260,000 would be reserved for the state's tribal programs, \$150,000 allocated for contracts with Energy Share, and the remaining \$1.34 million would be reserved for the LIEAP program. Montana has the unwelcome distinction of being the state with the highest poverty rate in the western United States. One of DPHHS' primary objectives in administering LIEAP and the Weatherization Assistance Program is to ensure that the home heating energy burden shouldered by low-income Montanans is comparable to that of other income groups in the state. DPHHS has negotiated a 25% discount with Northwestern Power Company for LIEAP customers. LIEAP is struggling with fewer funds, as well as a significantly increased demand for the program; they are dealing with 22,200 households, whereas in 1999 they were dealing with 14,000 households.

***{Tape: 1; Side: B; Approx. Time Counter: 0 - 7.2}***

Funds appropriated by HB 332 would allow LIEAP to give approximately as much financial assistance as they gave last year. The largest percentage of people they serve are those below 100% of poverty, and a large number of those served are disabled or elderly.

**David Ewer, The Governor's Budget Director,** stated that they are a strong proponent of this bill. With the high prices of oil and gas, the state is benefitting from increased revenues due to oil and gas exploration. As we benefit from these increased revenues, we should fully fund our financial commitment to LIEAP. He commented that for some people the choice is "heat or eat." Let's not have Montanans making that choice.

**Judi Houle, Chippewa Cree Tribe LIEAP Administrator,** said that her program is underfunded. They barely got their households through the cold spell last month. As shown in Jim Nolan's hand-out, the State's annual benefit payments ranged from \$68 to \$1,855, with the average being \$425. On the Rocky Boy Reservation, the annual benefit payment is \$112 to \$254. They desperately need any additional dollars they can get.

***{Tape: 1; Side: B; Approx. Time Counter: 7.2 - 16.3}***

**Rachel Haberman, Energy Share of Montana,** explained that they are a private, non-profit organization that helps low-income

Montanans with their energy heating needs. They work closely with LIEAP to complement that program. She noted that the need for energy assistance has grown dramatically with the increase in energy costs. Their office averages 20 calls/day from people seeking help.

**EXHIBIT**(aph19a06)

**Claudia Clifford, American Association of Retired Persons (AARP)**, asked the Committee to consider that low-income Montana households spend about 32% of their monthly income on energy bills, and 34% on out-of-pocket healthcare. There are not enough existing funds to meet the need. An AARP survey found that 43% of their members find it difficult to pay their energy bills.

**EXHIBIT**(aph19a07)

**EXHIBIT**(aph19a08)

***{Tape: 1; Side: B; Approx. Time Counter: 16.3 - 19.6}***

**Gene Leuwer, Rocky Mountain Development Council**, stated that LIEAP and the Energy Share Program are extremely important to their clients. They find that applications for energy assistance are up 15% this year, and the dollar amount of their energy bills has increased greatly. Last Friday they saw six clients whose power had been turned off, with PSC approval, and there were children living in those households. In three of those six cases, it took all of the LIEAP benefit plus an amount of Energy Share to pay their energy bill.

**Vicki Connelly, Director of LIEAP, Blackfeet Tribe**, said the funding they receive for LIEAP is not adequate. As of yesterday, they served 160 more households than they usually serve. She stated that they ration benefits over the full year, but the recent cold spell used up almost all of the funds. Fifty percent of the households they serve on the reservation make less than \$8,000/year; overall, 85% of households make less than \$16,000/year.

***{Tape: 1; Side: B; Approx. Time Counter: 19.6 - 28}***

**Steve Yeakel, Montana Council for Maternal and Child Health**, said that the situation they are facing with heating costs is urgent, and demands attention. They were recently in 17 Montana communities talking about children's health issues. He stated that they countered questions about energy assistance by saying that funding would be found somewhere.

**Betty Fornier, Butte Human Resources Development Council**, said their office averages over 100 phone calls/week from people applying for energy assistance or asking for further assistance. Many of their clients are on fixed-income and have to make the decision whether to pay their heating bill, buy their

medications, or buy food. Many of LIEAP's clients are families where both parents are working, and they are facing extreme hardship in meeting their energy bill. There has been a 36% increase this year in applicants.

**Opponents' Testimony:** None

***{Tape: 1; Side: B; Approx. Time Counter: 28 - 32; Comments: end of tape}***

**Questions from Committee Members and Responses:**

**REP. HAWK** asked if income is the only criteria for eligibility. **Jim Nolan** answered that it is the primary criteria, but there is also an assets test. If their assets are below a certain level (\$8,600 for a single person and \$12,913 for a two-person household, plus \$861 for each additional person), they can qualify for benefits.

**REP. SESSO** asked if DPHHS would be in favor of tying increased LIEAP benefits to energy conservation (weatherization) methods in low-income homes. **Jim Nolan** said, "Absolutely! We're in favor of that." He said that they also operate the Weatherization Program, and all of the 22,000 applicants for LIEAP benefits are automatically applying for Weatherization. There are very limited funds available for Weatherization, so only about 1,600 homes receive benefits. He said that their priority is to get people through the winter, so that their heat does not get turned off. LIEAP clients must agree that if they meet the criteria, they will allow their home to be weatherized. DPHHS is a strong supporter of weatherization.

**REP. TAYLOR** asked how much of the \$1.75 million supplement is spent on administrative costs, what the LIEAP total budget is and how much goes towards administration. **Jim Nolan** answered that all of the \$1.75 million supplement goes for LIEAP benefits. The LIEAP budget is \$13.4 million, and \$1,037 million is used to administer the program.

**Closing by Sponsor:**

**REP. BUZZAS** stated that she shares REP. SESSO'S concern about combining energy financial assistance with conservation and weatherization. She noted that Gov. Schweitzer's budget includes about \$10 million for the next biennium, and a big portion of that has to do with conservation and weatherization. She said the \$1.75 million supplement is a large amount of money, but it is a small amount to serve 22,000 people.

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 12.4}***



**Other Business**

**REP. KAUFMANN** asked that the committee reconsider their action on HB 13.

**{Tape: 2; Side: A; Approx. Time Counter: 12.4 - 14.5}**

**REP. BUZZAS** stated that she had asked Jon Moe, LFD, to check with the legal counsel on how HB 13 stood in this committee at the present time and was told it is "in committee." **Jon Moe** explained that since the Committee did not take either a positive vote to Table this bill, or a positive vote for a DO NOT PASS, it does not require a motion to reconsider. **REP. BUZZAS** said that means they can open it up to Executive Action and have a discussion.

**REP. KAUFMANN** said she would like to have **REP. FRANKLIN** again move her amendments. She said she hoped that after having an evening to think about the bill, and after hearing about the importance of making sure our lowest income workers receive a greater benefit, that we could consider putting these amendments on the bill. The law requires the Governor to bargain for the Pay Plan and he did so in good faith. For the first time in 20 years we have a negotiated settlement that helps out the lowest paid workers disproportionately more than the higher paid workers. There is room for the Committee members to work together on this issue.

**REP. MORGAN** asked the Chairman why she will not bring HB 268 forth, so they can compare it to HB 13 and make a decision.

**CHAIRMAN BUZZAS** said that it is the Chair's prerogative to schedule bills for hearing, and HB 13 represents the Pay Plan. HB 13 needs to be disposed of or further discussed in this Committee. Yesterday was the first time they heard that the GOP wanted HB 268 to be the vehicle for the Pay Plan. HB 13 is on the floor and it can fund the pay plan; however it is decided to amend it, and that is the vehicle that is before the body now.

**{Tape: 2; Side: A; Approx. Time Counter: 14.5 - 20.1}**

**REP. FRANKLIN** responded to **REP. MORGAN** that the Committee would proceed in an orderly fashion to consider the bills before them. She said she was confident that any other bills in the pipeline to be scheduled will be heard. They should dispense with HB 13 according to the Committee's wishes, and then, ultimately, whatever other vehicles may be in the pipeline.

**REP. RIPLEY** said he agrees with **REP. KAUFMANN** that there is room for cooperation. He said he has requested that amendments for HB 13 be drawn up, but has not yet received them. Therefore, he would like to wait to take action after the Committee sees those amendments.

**REP. WELLS** asked for clarification of the 10-10 vote yesterday on HB 13 and its amendments. They were told they did not have a positive vote for a DO NOT PASS (on the amendments), but they had a resounding "no" vote for a DO PASS (HB 13). He asked if the proper motion should have been to move a DO NOT PASS and re-vote, so that there would be 19 "yeses" for DO NOT PASS. **Jon Moe** answered that the Legal Department said a positive vote was required for the DO NOT PASS in order to be in a position to require a reconsideration. **REP. WELLS** stated the Committee needs to take note of this information so that appropriate motions are made and nothing is overlooked. Apparently a positive vote is needed in order for bills to leave the Committee.

**{Tape: 2; Side: B; Approx. Time Counter: 20.1 - 23.9}**

**Motion:** **REP. FRANKLIN** moved that HB001302.AGP DO PASS.

**Discussion:**

**REP. FRANKLIN** said the amendments would make HB 13 consistent with the ratified union agreement. She said, "This is an agreement between two recognized parties that have recognized authority, and we should respect their positions in that role." There have been comments that perhaps HB 13 was not focusing on the right things, but **REP. FRANKLIN** thought that was a diversion from the legitimate authority negotiators have, to strike the best deal for their members. She said that for informational purposes, there are only two employees at Grade 23; this does not include university employees. She asked the Committee to support these amendments, and said that there would be an opportunity to talk about all of the other proposals as they are scheduled.

**{Tape: 2; Side: B; Approx. Time Counter: 23.9 - 28.7}**

**CHAIRMAN BUZZAS** said she wanted to be certain the Committee proceeds properly when acting on HB 13 and its amendments; and they will seek legal assistance. The Committee probably needs to go into Executive Action, but they need some assistance on that. She said she is trying to give the Committee the opportunity for people to talk about the pay plan in the best possible way while still proceeding in the correct manner.

**REP. WITT** said that he didn't think this was a legitimate meeting. He said members of the Committee should have the opportunity to look at the bills, discuss the issues, look at the

amendments and do what they can for the best interests of Montana and its employees.

**Motion:** REP. WITT moved to adjourn.

CHAIRMAN BUZZAS said that she would not recognize the motion at this time. REP. WITT responded that it was a non-debatable motion.

REP. FRANKLIN stated that the Committee has a bill before them, along with a motion, and the Committee needs to act on this motion. Other employee Pay Plan bills will be heard by the Committee and dealt with. She said that she did not agree with REP. WITT'S premise. In regards to not having a positive motion, which REP. WELLS referred to previously, she said that sometimes it is done on purpose, to give the Committee a little more room, but it is not an unusual occurrence.

***{Tape: 2; Side: B; Approx. Time Counter: 28.7 - 32.2; Comments: end of tape}***

CHAIRMAN BUZZAS ordered the Committee to recess until they could get an opinion from Legal, to determine if the Committee is proceeding properly.

REP. RIPLEY asked the Chairman to give him enough time to have his amendments printed before the Committee takes any action.

Committee went into recess.

***{Tape: 2; Side: B; Approx. Time Counter: 0 - 2.5}***

CHAIR BUZZAS reconvened the meeting. She stated, "I understand this is a huge issue and we need to keep our lines of communication open in order to get a Pay Plan out of this committee." She then honored REP. WITT'S motion to adjourn.

REP. WITT commented that he thinks the Committee can develop a Pay Plan and thanked the Chair for her offer to adjourn.

**Motion/Vote:** REP. WITT moved to adjourn. Motion carried unanimously by voice vote.

**ADJOURNMENT**

Adjournment: 5:05 P.M.

REP. ROSALIE (ROSIE) BUZZAS, Chairman

MARCY MCLEAN, Secretary

RB/mm

Additional Exhibits:

**EXHIBIT ([aph19aad0.PDF](#))**